

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 09-0320 WHA

Plaintiff,

v.

**ORDER DENYING MOTION TO  
REDUCE SENTENCE**

RENE NAVAREZ,

Defendant.


On March 18, 2016, defendant, represented by counsel, moved for a reduction in sentence pursuant to Amendment 782 of the Sentencing Guidelines Manual. The motion requested a reduction from his original sentence of 144 months to 120 months. The United States Probation Office also recommended a reduction to 120 months. The government opposed any reduction to defendant's original sentence. On April 7, 2016, the Court reduced defendant's sentence to 126 months.

Defendant now moves pro se for a further reduction to his sentence pursuant to Amendments 750 and 759. Defendant argues that "[h]ad he first filed a reduction motion based on Amendment 750 and then one based on Amendment 782, his present sentence would have in all likelihood been 120 months. . . .Navarez asks this Court not to penalize him for failing to file his motions in chronological order and reduce his sentence to 120 months." Defendant concedes that 120 months is the statutory minimum sentence. Defendant therefore asks for an additional six month reduction in his sentence to 120 months.

1 In response, the United States Probation Office asserts that defendant “may not file  
2 successive motions for relief based on the same amendment.” The Court need not reach the  
3 issue of whether or not defendant may file a successive motion to reduce his sentence as the  
4 Court concludes that a further reduction of defendant’s sentence is not warranted here. Because  
5 defendant’s conviction carries a ten-year mandatory minimum, defendant’s amended guideline  
6 “range” is 120 months under both Amendment 782 and Amendment 750. *See* U.S.S.G.  
7 5G1.1(c)(2). At the time of defendant’s earlier motion, the Court considered defendant’s  
8 request for a reduction to 120 months, as well as Probation’s recommendation of the same, and  
9 determined that a reduction to 120 months was not warranted. Instead, the Court reduced  
10 defendant’s sentence to 126 months. A further reduction is not warranted. Therefore,  
11 defendant’s motion is **DENIED**.

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13 **IT IS SO ORDERED.**

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15 Dated: September 22, 2016.

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17 WILLIAM ALSUP  
18 UNITED STATES DISTRICT JUDGE  
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